

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

<b>MICHAEL AISENBERG,</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 1:22-cv-125</b>
	)	
<b>RELIANCE STANDARD LIFE</b>	)	
<b>INSURANCE COMPANY,</b>	)	
<b>Defendant.</b>	)	

**ORDER**

For the reasons stated in the Memorandum Opinion issued this same day,

It is hereby **ORDERED** that Defendant's objections to the Report and Recommendation (Dkt. 25) are **SUSTAINED IN PART AND OVERRULED IN PART**. Specifically, Defendant's objection that the Report and Recommendation improperly concluded that Defendant adopted the wrong definition of Plaintiff's "regular occupation" is **SUSTAINED**. All of Defendant's other objections to the Report and Recommendation are **OVERRULED**.

It is further **ORDERED** that the Magistrate Judge's Report and Recommendation (Dkt. 24) is **ADOPTED IN PART**. The Report is adopted with respect to its conclusion that Defendant abused its discretion in failing to consider the risk of future harm when determining whether Plaintiff was entitled to long-term disability benefits. The Report is not adopted with respect to its conclusion that Defendant used the wrong definition of Plaintiff's "regular occupation."

It is further **ORDERED** that the parties cross-motions for summary judgment (Dkts. 10, 13) are **GRANTED IN PART AND DENIED IN PART**. Specifically,

- Plaintiff's Motion for Summary Judgment (Dkt. 13) is **GRANTED** insofar as the plan administrator abused its discretion in failing to consider the risk of future harm, but **DENIED** insofar as the administrator did not abuse its discretion in defining Plaintiff's

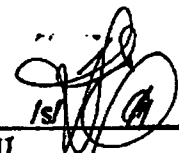
“regular occupation” broadly as an “attorney.” Plaintiff’s Motion for Summary Judgment is also **DENIED** insofar as Plaintiff seeks entry of judgment.

- Defendant’s Motion for Summary Judgment (Dkt. 10) is **GRANTED** insofar as Defendant did not abuse its discretion in defining Plaintiff’s “regular occupation” broadly as an “attorney,” but **DENIED** insofar as Defendant did abuse its discretion in failing to consider the risk of future harm to Plaintiff’s cardiac condition in making the disability determination. Defendant’s Motion for Summary Judgment is also **DENIED** insofar as Defendant seeks entry of judgment.

It is further **ORDERED** that this matter is **REMANDED** to Defendant for further consideration by the ERISA plan administrator of whether there exist other attorney positions that Plaintiff could perform without incurring a risk to his cardiac health.

The Clerk of the Court is directed to send a copy of this Order to all counsel of record.

Alexandria, Virginia  
February 21, 2023

  
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T. S. Ellis, III  
United States District Judge